



UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

BINGHAM MCCUTCHEN LLP
2020 K Street, N.W.
Intellectual Property Department
WASHINGTON DC 20006

In re Application of :
, et al. : **DECISION ON PETITION**
Application No. 09/829903 :
Filed: April 11, 2001 :
Attorney Docket No. 50277-1004 :
:

This is a decision on the Petition To Withdraw Holding of Abandonment (CFR 1.181), received in the United States Patent and Trademark Office (USPTO) on September 28, 2007.

The petition is **DISMISSED**. Any request for reconsideration of this decision, or as explained below, filing a petition seeking revival under 37 CFR § 1.137, must be filed within **TWO MONTHS** (2) from the mail date of this decision.

The application was held abandoned for failure to timely pay the issue fee as required in the Notice Of Allowance and Fee(s) Due, mailed June 1, 2007, which set a three (3) month statutory period for reply. A Notice of Abandonment was mailed September 24, 2007.

The Office acknowledges the timely receipt of Part B – Fee(s) Transmittal (Transmittal) on August 27, 2007, as evidenced by the “Office Date” stamp thereon. However, without the inclusion of the Deposit Account Number on the form there was no authorization to charge the required fees. As a result thereof, the patent application became abandoned midnight September 24, 2007.

As an additional aid to applicants, the rule as proposed has been amended to include §§ 1.311(b)(1) and (b)(2) that can act as safety mechanisms. Where it is clear that an applicant actually intends to pay the issue fee and publication fee (if required) such as by submitting an incorrect issue fee or publication fee, or a fee transmittal form (or letter) for payment of the fees, a request to charge the correct issue fee or any publication fee due to any deposit account identified in a previously filed authorization to charge **such** fees, will be allowed to act a payment of the correct issue fee.

Petitioner should review the amended rules pertaining to general authorization to pay fees. See 65 FR 54647 September 8, 2000, revised 69 FR 56481 September 21, 2004, effective September 21, 2004.

Unfortunately, the application file does not reveal a previously filed authorization to charge **such** fee(s) or specifically the issue fee.

Add that the applicant will be sent to the Office of Petitions to consider the 1.137 petition.

Further correspondence with respect to filing the petition under 37 CFR 1.137 should be directed to the Office of Petitions at 571-272-3282 or addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
Office of Petitions
P O Box 1450
Alexandria, VA 22313-1450

Telephone inquires concerning this decision be directed to the undersigned in the Office of Patent Publication at 703-305-9250 ext.164.


Kendrick Spruill
Office of the Director
Office of Patent Publications